

SENATE BILL 2822
By Wallace

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 13, relative to real estate brokers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-13-102, is amended by deleting subdivision (6) in its entirety and by substituting instead the following:

(6) "Adverse facts" means conditions or occurrences generally recognized by competent licensees that negatively affect the value of real estate, significantly reduce the structural integrity of improvements to real estate, or present a significant health risk to occupants of the property.

SECTION 2. Tennessee Code Annotated, Section 62-13-102, is further amended by deleting subdivision (12) in its entirety and by substituting instead the following:

(12) "Limited agency" means an agency relationship created for the purpose of providing real estate services in which the client's or other party's liability for the actions or statements of an agent, subagent, or facilitator is limited to actions or statements about which the client or other party had knowledge.

SECTION 3. Tennessee Code Annotated, Section 62-13-102(11), is amended by adding the following language to the end thereto:

A facilitator may advise either or both of the parties to a transaction but cannot be considered a representative or advocate of either party.

SECTION 4. Tennessee Code Annotated, Section 62-13-401, is amended in the second sentence by deleting the language “considered an agent” and by substituting the language “considered an agent or advocate”; and by deleting the fourth sentence in its entirety.

SECTION 5. Tennessee Code Annotated, Section 62-13-403, is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) Provide to each party to the transaction timely and accurate information regarding market conditions that might affect such transaction only when such information is available through public records and when such information is requested by a party;

SECTION 6. Tennessee Code Annotated, Section 62-13-404, is amended by deleting subdivision (2) in its entirety and by renumbering the subsequent subdivision accordingly.

SECTION 7. Tennessee Code Annotated, Section 62-13-405, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) Prior to providing any real estate services to a client or customer in a prospective transaction, a licensee shall provide the client or customer with a written disclosure that indicates the facilitator, agent, subagent, or designated agent status of the licensee in the transaction. This written disclosure shall also include the following statement:

ANY INFORMATION WHICH YOU GIVE TO A LICENSEE, PRIOR TO THIS LICENSEE’S DISCLOSURE TO YOU THAT HE OR SHE REPRESENTS SOMEONE ELSE IN A TRANSACTION TO WHICH YOU MAY BE A PARTY, SHALL BE HELD IN CONFIDENCE BY THAT LICENSEE. ADVERSE FACTS ABOUT A PROPERTY, HOWEVER, MUST BE DISCLOSED.

The licensee may add additional agency information to supplement such required disclosure language.

SECTION 8. Tennessee Code Annotated, Section 62-13-405(c), is amended by deleting the language “duties and relationships” and by substituting instead the language “agency or facilitator status”.

SECTION 9. Tennessee Code Annotated, Section 62-13-405, is amended by adding a new subsection thereto, as follows:

(e) Real estate transactions involving the transfer or lease of commercial properties, the transfer of property by public auction, or the transfer, lease or rental of residential properties of more than four (4) units shall not be subject to the agency disclosure requirements of this section.

SECTION 10. Tennessee Code Annotated, Section 62-13-407, is amended by inserting the language “as an agent, subagent, or facilitator” after the words “provides services” and before the words “shall not be liable”.

SECTION 11. This act shall take effect July 1, 1996, the public welfare requiring it.

